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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,695	04/05/2001	Ernic F. Brickell	10559/458001/P10869	6460
20985	7590	11/16/2006	EXAMINER	
FISH & RICHARDSON, PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022				CALLAHAN, PAUL E
		ART UNIT		PAPER NUMBER
				2137

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/828,695	BRICKELL, ERNIE F.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Paul Callahan	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 November 2006.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10, 12-19, 21-28 and 31-38 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 18, 19, 21, 22 and 32 is/are allowed.

6) Claim(s) 1, 4, 9, 10, 16, 17, 23, 25, 28 and 31 is/are rejected.

7) Claim(s) 2, 3, 5, 6-8, 12-15, 24, 26, 27, 33-38 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-10, 12-19, 21-28, 31, and 32 were pending in this application at the time of the previous Office Action. Via the Amendment filed 11/2/2006, new claims 33-38 have been added. Therefore claims 1-10, 12-19, 21-28, 31, and 32-38 are pending and have been examined.

***Drawings***

2. The drawings were received on 11-02-06. These drawings are approved.

***Response to Arguments***

3. Applicant's arguments filed 11-02-06 have been fully considered but they are not persuasive.

The applicant argues in traverse of the rejections of claims 1 and 23 as obvious in view of Arthan, US 6,754,349, by asserting that Arthan fails to teach the feature, recited in the claim, of sending a second value of a set, but not all of the values of a set, to a first delegate. The applicant argues that the method of Arthan does not teach this since a value PRKEY is never sent to a second delegate. However a review of Arthan shows that a second value of a set in the form of a key seed RKEK is taught as being sent to a remote site for calculation of a PRKEY value (see Arthan col. 1 lines 20-23, col. 3 lines 49-67, col. 4 lines 25-30). This does read on the claim limitation.

The applicant argues that there is no teaching of encrypted information that is inaccessible without the first and second values of the set. However,

Arthan does teach this at the cited passages where the PRKEY and RSEED are needed for recovery.

The applicant argues in traverse of the rejection of claim 10 by asserting that Arthan fails to teach the claim limitation of excluding a second access from storage on a server. However a review of Arthan reveals that such a value in the form of a recovery key RKEK that is excluded from storage.

The Applicant argues in traverse of the rejection of claim 25 by asserting that the claim recites fundamentally different limitations than those found in claims 1 and 9. However the Examiner maintains that the claim recites substantially the same limitations as claims 1 and 9, and is in fact merely the apparatus claim corresponding to claims 1 and 9 and therefore the rejection of the claim is properly formulated in the previous office Action.

#### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 9, 10, 16, 17, 23, 25, 28, and 31 are rejected under 35 USC 103(a) as being unpatentable over Arthern, US 6,754,349.

The only change made in the latest amendment filed 11/2/06 to the claims that were pending at the time of the previous Office action is a minor replacement to the language of claim 18 wherein "encrypted" is replaced with a synonymous term "protected." Therefore no changes are necessary in the rejections of the claims as set forth in the previous Office Action. The rejections will not be

repeated herein but instead are hereby incorporated in their entirety by reference to the previous Office Action in the case. The Applicant is referred to the previous Office Action for the text of those rejections.

***Allowable Subject Matter***

5. Claims 18, 19, 21, 22, and 32 are allowed.
6. Claims 2, 3, 5, 6-8, 12-15, 24, 26, 27, and 33-38 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The following is a statement of reasons for the indication of allowable subject matter:

Claims 2, 3, 5, 6-8, 12-15, 18, 19, 21, 22, 24, 26, 27 and 32 have not been altered by the latest amendment filed 11/2/06 and therefore the reasons for allowance and the indication of allowable subject matter do not need to be repeated herein. Instead, the reasons set forth in the previous Office action are hereby incorporated in their entirety by reference to the previous Office Action in the case. The Applicant is referred to the previous Office Action for the text of those reasons.

As for claims 33-38, the prior art does not teach the distribution of a subset of secret values to delegates authorized to access encrypted information in the manner of the applicant.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Emmanuel Moise, can be reached on (571) 272-3865.

The fax phone number for the organization where this application or proceeding is assigned is: (571) 273-8300.

PEC  
11/10/06

*Paul Callahan*

*E. Moise*  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER